



## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

#### RIN 0648-BK09

### **Fisheries off West Coast States; Highly Migratory Fisheries; Amendment 6 to Fishery Management Plan for West Coast Highly Migratory Species Fisheries; Authorization of Deep-Set Buoy Gear**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of availability of an amendment to a fishery management plan; request for comments.

**SUMMARY:** NMFS announces that the Pacific Fishery Management Council (Council) has submitted Amendment 6 to the Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species (HMS FMP) for review by the Secretary of Commerce. The intent of Amendment 6 is to authorize deep-set buoy gear (DSBG) as a legal gear type for targeting highly migratory species (HMS) off the U.S. West Coast, and to establish management measures, a permitting program, and a standardized bycatch reporting methodology (SBRM) for this fishery. The amendment is expected to affect harvest levels of swordfish by authorizing an additional gear type for commercial harvest of HMS in Federal waters off the U.S. West Coast. The Council transmitted the draft Amendment to NMFS on December 21, 2022.

**DATES:** Comments on Amendment 6 must be received by *[Insert date 60 days after date of publication in the FEDERAL REGISTER]* to be considered in the decision whether to approve, disapprove, or partially approve Amendment 6.

**ADDRESSES:** You may submit comments on this document, identified by NOAA-NMFS-2022-0141, by any of the following methods:

*Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

*Mail:* Submit written comments to *WCR.HMS@noaa.gov*.

*Instructions:* Comments must be submitted by one of the above methods to ensure they are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.*, name, address, *etc.*) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Copies of the draft Amendment 6 and other supporting documents are available via the Federal eRulemaking Portal: *https://www.regulations.gov*, docket NOAA-NMFS-2022-0141, or contact the Acting Regional Administrator, Scott M. Rumsey, NMFS West Coast Region, 1201 NE Lloyd Blvd., Suite 1100, Portland, OR 97232-1274, or *WCR.HMS@noaa.gov*.

**FOR FURTHER INFORMATION CONTACT:** Amber Rhodes, NMFS, (202) 936-6162, *Amber.Rhodes@noaa.gov* or Rachael Wadsworth, NMFS, (206) 526-6152, *Rachael.Wadsworth@noaa.gov*.

**SUPPLEMENTARY INFORMATION:**

DSBG was initially developed off the U.S. West Coast through a series of research trials which began in 2011 and continued under exempted fishing permits

(EFPs) beginning in 2015. The information collected indicated that DSBG was an effective gear type for selectively targeting swordfish with minimal bycatch and that the gear was potentially profitable to fishermen. These promising results led the Council to recommend that NMFS authorize DSBG as a legal gear type for targeting HMS in the U.S. West Coast Exclusive Economic Zone (EEZ) off California and Oregon.

The Council developed this draft amendment over a series of public meetings. The process began with the adoption of a range of alternatives (ROA) for federally authorized DSBG fishing in June of 2018. Later, in November 2018, the Council refined its ROA and adopted a preliminary preferred alternative (PPA) to authorize DSBG off the coasts of California and Washington, with a limited entry (LE) permitting system for use of the gear within the Southern California Bight (SCB). In September 2019, the Council adopted its final preferred alternative (FPA) after making a few minor clarifications to its PPA, including amending the tiered criteria of swordfish fishing experience necessary to qualify for an LE permit. At its March 2021 Meeting, the Council modified its FPA to clarify terms, such as “EFP holders,” in the recommended tiered criteria, and specified data sources for qualifying LE permit applicants under those tiers. The Council also provided additional input on the permit qualification procedures (*i.e.*, a one-time ranking of permit qualifiers according to tiers), and clarified its intent to issue permits to entities, including corporations, while prohibiting permit transfers through changes in entity ownership. During its November 2021 meeting, the Council adopted a standardized bycatch reporting methodology for an authorized DSBG fishery. Finally, during its March 2022 meeting, the Council considered additional measures for an authorized DSBG fishery related to compliance with the Endangered Species Act, and procedures for monitoring and management of the proposed fishery, including LE permit ownership.

The proposed changes to the HMS FMP are described in further detail below.

Section 6.1 would be amended to include the definition of DSBG as a legal gear type. Both “standard” and “linked” configurations of DSBG are described and would be authorized. Additionally, the section would be amended to clarify that DSBG must be actively tended, in contrast to surface hook and line gear, which does not require active tending.

Section 6.2 would be amended to describe the LE permitting regime for fishing DSBG within the SCB (*i.e.*, Federal waters east of 120° 28’ 18” W. longitude). This includes language outlining the timing and pace of permit issuance, tiered qualifying criteria (including definitions for permit holders and vessel owners), procedures for permit renewals, and restrictions on permit transfers. Up to 50 permits would be issued for the first year, and up to 25 additional permits would be issued annually in subsequent years until a maximum of 300 permits are issued. The draft amendment also describes scenarios in which the Council or NMFS may determine that a fewer number of permits should be issued than 300. In such a scenario, the Council could recommend NMFS publish new regulations restricting permit issuance based on applicable law or other considerations. Finally, Section 6.2.1.1 describes the tiered criteria that NMFS will use to issue permits to potential DSBG fishermen based on industry participation history and swordfish fishing experience.

Section 6.3 would be amended to include DSBG-specific language related to standardized bycatch reporting methodology (SBRM). This language includes a synopsis of the gear’s documented bycatch performance, and considerations related to logbook reporting and observer coverage in the authorized fishery. DSBG vessels would be subject to logbook reporting requirements in the same manner as other HMS fisheries. As an addendum to this section, Section 8.0 would also be amended to include a reference to the Draft Environmental Impact Statement (DEIS) analyzing the environmental and socioeconomic impacts of DSBG authorization, which NMFS published in August 2021.

The preamble to Section 6.6 would be amended to include DSBG when referring to HMS fishery conservation and management measures. Section 6.6.4 would also be amended to reference pending Federal regulations on the maximum amount of gear deployed, gear tending requirements, timing of gear deployment/retrieval, and simultaneous use of DSBG and other gear types on a single trip.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: January 3, 2023.

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National Marine Fisheries Service.

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